

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

Your Committee on Public Policy and Veterans Affairs, to which was referred Senate Bill 379, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 2, line 30, after "cigar" insert "**or pipe tobacco**".
- 2 Page 3, line 18, delete "A" and insert "**Except as provided in**
- 3 **subsection (c), a**".
- 4 Page 3, line 18, delete "tobacco" and insert "**cigarettes**".
- 5 Page 3, line 19, delete "products".
- 6 Page 3, line 23, delete "tobacco" and insert "**cigarettes**".
- 7 Page 3, line 24, delete "products".
- 8 Page 3, between lines 28 and 29, begin a new paragraph and insert:
- 9 "**(c) A merchant may make a drop shipment of tobacco products**
- 10 **to an Indiana resident or retailer that is billed through a**
- 11 **distributor**".
- 12 Page 4, line 10, strike "alcohol and tobacco".
- 13 Page 4, line 18, strike "alcohol and tobacco".
- 14 Page 4, line 35, strike "alcohol and tobacco".
- 15 Page 4, line 42, strike "alcohol and tobacco".
- 16 Page 6, line 2, strike "alcohol and tobacco".

1 Page 6, line 25, strike "alcohol and".

2 Page 6, line 26, strike "tobacco".

3 Page 6, line 33, strike "alcohol and tobacco".

4 Page 6, between lines 35 and 36, begin a new paragraph and insert:
5 "SECTION 14. IC 24-3-6 IS ADDED TO THE INDIANA CODE
6 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2005]:

8 **Chapter 6. Contraband Cigarettes**

9 **Sec. 1. As used in this chapter, "commission" refers to the**
10 **alcohol and tobacco commission created by IC 7.1-2-1-1.**

11 **Sec. 2. As used in this chapter, "distributor" means a distributor**
12 **(as defined in IC 6-7-1-6) that holds a registration certificate issued**
13 **under IC 6-7-1-16.**

14 **Sec. 3. As used in this chapter, "importer" means a person that**
15 **brings cigarettes into the United States for sale or distribution.**

16 **Sec. 4. As used in this chapter, "licensed" means holding a**
17 **license issued under section 9 of this chapter.**

18 **Sec. 5. As used in this chapter, "manufacturer" means a person**
19 **that manufactures or otherwise produces cigarettes to be sold in**
20 **the United States.**

21 **Sec. 6. As used in this chapter, "person" has the meaning set**
22 **forth in IC 6-7-1-4.**

23 **Sec. 7. As used in this chapter, "retailer" means a person that**
24 **sells cigarettes to a consumer. The term includes a distributor.**

25 **Sec. 8. As used in this chapter, "stamp" has the meaning set**
26 **forth in IC 6-7-1-9.**

27 **Sec. 9. (a) The commission may issue or renew a license to the**
28 **following applicants:**

29 **(1) An importer.**

30 **(2) A manufacturer.**

31 **The commission shall prescribe the form of an application.**

32 **(b) An importer or manufacturer that conducts business in**
33 **Indiana must apply under this section for a license for the**
34 **importer's or manufacturer's principal place of business. An**
35 **importer or manufacturer that is issued a license shall display the**
36 **license at the importer's or manufacturer's principal place of**
37 **business.**

38 **(c) The commission shall prescribe the form and duration of a**

license issued under this section. However, a license may not be valid for more than three (3) years from the date of issuance.

(d) A license issued under this section is nontransferable.

(e) The commission shall impose a fee of five hundred dollars (\$500) to issue or renew a license issued under this section.

(f) The commission shall not issue or renew a license under this section if:

(1) the applicant owes at least five hundred dollars (\$500) in taxes imposed under IC 6-7-1-12;

(2) the commission revoked the applicant's license within two (2) years before the application;

(3) the applicant commits an offense under IC 6-7-1-21;

(4) the applicant does not comply with IC 24-3-3-12; or

(5) the applicant violates IC 24-3-4.

(g) The commission may revoke or suspend a license issued under this section if the applicant:

(1) is not eligible to receive or renew a license under subsection (f); or

(2) violates this chapter.

Sec. 10. (a) A distributor may apply a stamp only to cigarettes that are received from a licensed importer or licensed manufacturer.

(b) A distributor shall store stamped and unstamped cigarettes separately.

(c) A distributor may transfer unstamped cigarettes only as provided in IC 6-7-1-18.

Sec. 11. (a) A manufacturer or an importer may sell cigarettes in Indiana only to a distributor or a licensed importer.

(b) A manufacturer that sells cigarettes to a licensed importer under subsection (a) must be a licensed manufacturer.

(c) A distributor may sell cigarettes only to a distributor or a retailer.

(d) A distributor may obtain cigarettes only from another distributor, a licensed importer, or a licensed manufacturer.

(e) A retailer may obtain cigarettes only from a distributor.

Sec. 12. (a) This section does not apply to a distributor who:

(1) is a licensed manufacturer; and

(2) complies with section 13 of this chapter.

(b) A distributor shall report the following information for each place of business belonging to the distributor to the office of the attorney general not later than the fifteenth day of each month:

(1) The number and brand of cigarettes:

(A) distributed;

(B) shipped into Indiana; or

(C) shipped within Indiana;

during the immediately preceding month.

(2) The name and address of each person to which cigarettes described in subdivision (1) were distributed or shipped.

Sec. 13. (a) An importer or a manufacturer shall maintain documentation for each place of business belonging to the importer or manufacturer for each transaction other than a retail transaction with a consumer involving the sale, purchase, transfer, consignment, or receipt of cigarettes. The documentation must include:

(1) the name and address of the parties to the transaction; and

(2) the quantity by brand style of cigarettes involved in the transaction.

(b) Subject to subsection (c), an importer or a manufacturer shall preserve documentation described in subsection (a) at the place of business at which each transaction occurs.

(c) The commission may allow an importer or a manufacturer with multiple places of business to preserve documentation described in subsection (a) at a centralized location. However, the importer or manufacturer shall provide duplicate documentation at each place of business upon request by the commission.

(d) An importer or a manufacturer shall maintain documentation under this section for five (5) years from the date of the transaction.

(e) The commission may:

(1) obtain access to; and

(2) inspect at reasonable times;

the documentation maintained under this section. The commission may share the documentation with other law enforcement officials.

Sec. 14. (a) The commission may enter and inspect, without a warrant during normal business hours or with a warrant during nonbusiness hours, the facilities and records of an importer or a

1 **manufacturer.**

2 **(b) If the commission or a law enforcement officer has**
 3 **knowledge or reasonable grounds to believe that a vehicle is**
 4 **transporting cigarettes in violation of this chapter, the commission**
 5 **or the law enforcement officer may stop and inspect the vehicle for**
 6 **cigarettes being transported in violation of this chapter.**

7 **Sec. 15. (a) A person who violates this chapter is liable for a civil**
 8 **penalty equal to the greater of:**

9 **(1) five (5) times the value of the cigarettes involved in the**
 10 **violation; or**

11 **(2) one thousand dollars (\$1,000).**

12 **(b) A civil penalty under this section is in addition to any other**
 13 **penalty imposed.**

14 **Sec. 16. (a) Either or both of the following may bring an action**
 15 **to prevent or restrain violations of this chapter:**

16 **(1) The attorney general or the attorney general's designee.**

17 **(2) A person that holds a valid permit under 26 U.S.C. 5712.**

18 **(b) A person that brings an action under subsection (a) shall**
 19 **provide notice to the attorney general of the commencement of the**
 20 **action.**

21 SECTION 15. IC 24-4-12-8 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section does
 23 not apply to a person who keeps available for public inspection a
 24 written authorization identifying that person as an authorized
 25 representative of the manufacturer or distributor of a product listed in
 26 subsection (b), if the authorization is not false, fraudulent, or
 27 fraudulently obtained.

28 (b) An unused property merchant may not offer at an unused
 29 property market for sale, or knowingly permit the sale of, baby food,
 30 infant formula, cosmetics, personal care products, nonprescription
 31 drugs, ~~or~~ medical devices, ~~or cigarettes or other tobacco products.~~

32 Page 9, between lines 28 and 29, begin a new paragraph and insert:

33 "SECTION 18. [EFFECTIVE JULY 1, 2005] **Notwithstanding**
 34 **IC 24-3-6-12(b)(2), as added by this act, a distributor (as defined in**
 35 **IC 24-3-6-2, as added by this act) is not required to report the**
 36 **information required in IC 24-3-6-12(b)(2), as added by this act,**
 37 **until the later of the following:**

38 **(1) When the attorney general becomes capable of receiving**

1 **the information reported in an electronic format.**
2 **(2) July 1, 2008."**

3 Renumber all SECTIONS consecutively.
 (Reference is to SB 379 as printed February 11, 2005.)

and when so amended that said bill do pass.

Representative Alderman